TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

Prepared by: David M. Abramson, Planner III

SUBJECT: SPM 5-1-06 / 04-328 / Stonebrook Estates / 3000 West Stonebrook Circle,

Davie, FL 33330

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: SPM 5-1-06 / 04-328 / Stonebrook Estates

REPORT IN BRIEF:

The petitioner has requested a site plan modification to lots 111 and 112 in Stonebrook Estates residential development. The following are the details relating to these specific requests:

- Lot 111: This request is for a reduction in the required side yard set back along the west property line from 25′ to 20′.
- Lot 112: This request is for a reduction in the side yard set back along the east property line from 25' to 15'.

Similarly, on August 6, 2003, Town Council approved a site plan modification request to reduce the required side setbacks for twenty-two (22) single-family lots within the Stonebrook Estates development. This request modified the side setback from 25' to 15' to accommodate model homes with wider elevations and side loaded garages. Lots 111 and 112 were not included in this request. Both lots are presently vacant and the petitioner desires to construct approved model homes.

This site plan modification request will not affect the maximum lot coverage of 40% and/or the open space ratio for the overall Stonebrook development. This request would slightly reduce the ultimate open space provided between four (4) single-family homes. Consequently, the developer has volunteered to contribute \$1,000.00 to the Town's Open Space/Recreation Fund to mitigate this impact.

Staff finds the application complete and suitable for transmittal to the Town Council for further consideration.

PREVIOUS ACTIONS: N/A

CONCURRENCES:

At the June 27, 2006, Site Plan Committee Meeting, Mr. Breslau made a motion, seconded by Vice-Chair Engel, to approve SPM 5-1-06 Stonebrook Estates. (Motion carried 5-0)

FISCAL IMPACT: N/A

RECOMMENDATION(S):

Staff finds the application complete and suitable for transmittal to the Site Plan Committee and Town Council for further consideration.

Attachment(s): Site Plan, Planning Report, Backup Information, Stonebrook Estates Site Plans, Lot 111 and 112 Site Plans, Agreement, Future Land Use Plan Map, Zoning and Aerial Map

Application: SPM 5-1-06 / 04-328 / Stonebrook Estates

Original Report Date: 6/19/06

Revisions: 6/30/06 Exhibit "A"

TOWN OF DAVIE

Development Services Department Planning and Zoning Division Staff Report and Recommendation

Applicant Information

Owner:

Name: Stonebrook Estates

Address: 3000 West Stonebrook Circle

City: Davie, FL 33330 **Phone:** (954) 382-9500

Petitioner:

Name: Kalis & Kleiman, P. A.

Neal R. Kalis, Esq.

Address: 7320 Griffin Road, Suite 109

City: Davie, FL 33314 **Phone:** (954) 791-0477

Background Information

Application Request: Site plan modification amending the side setbacks for two (2)

undeveloped lots within the Stonebrook Estates Residential Home

Development

Address: 3000 West Stonebrook Circle, Davie, FL 33330

Location: Generally located at south of SW 26 Street, between SW 130

Avenue and Flamingo Road.

Future Land

Use Plan Map: Residential 1 DU/AC

Zoning: E, Estate District

Existing(s): Single-Family Residential Home Development

Parcel Size(s): Community (Approximately 136 Acres)

Lot 111 35,605 Sq. Ft. (.817 Acres) Lot 112 35,767 Sq. Ft. (.821 Acres) **Surrounding Uses:**

Single Family Homes & Open Space North:

(Peico Estates)

South: Single Family Homes

(Kapok Village Estates)

East: Single Family Homes

(Flamingo Groves)

West: Single Family Homes

(Whispering Pines, Waldon Groves Estates)

Surrounding Land

Use Plan Map Designations:

Residential 1 DU/AC, and Recreation & open space

Residential 1 DU/AC

Residential 1 DU/AC

Residential 1 DU/AC

Surrounding Zoning:

North: A-1, Agriculture District and AG, Agriculture District South: A-1, Agriculture District and R-1, Estate Dwelling District East: A-1, Agriculture District and AG, Agriculture District West: A-1, Agriculture District and R-1, Estate Dwelling District

Zoning History

Related Zoning History:

On February 15, 1995, the Town Council approved the rezoning request for Stonebrook Estates to E, Estate Zoning District.

On February 21, 1996, the Town Council approved Ordinance No. 96-004 that repealed the E, Estates District from the Town of Davie, Code of Ordinances, Land Development Code Chapter 12.

Previous Requests on same property:

Plat Application (P 10-1-95), On February 15, 1995, the Town Council approved "Kapok Grove Estates" Plat Application for one-hundred twenty-nine (129) detached single-family homes record in Broward County records Plat Book 160, Page 48.

Site Plan Application (SP 2-8-05), On September 6, 1995, the Town Council approved the StoneBrook Estates Site Plan Application to construct 129 single family homes on 136 acres.

Site Plan Modification Application (SPM 5-8-03), On August 6, 2003, the Town Council approved Resolution R-2003-197 that provided side setback modification from the original Stonebrook Site Plan approval.

Applicable Codes and Ordinances

The E, Estate Zoning District was repealed in 1996. The current Town of Davie, Land Development Code, Development Standards that governed Stonebrook Estates is no longer in effect. Therefore, initial development standards shall comply with original site plan approval for Stonebrook Estates (SP 2-8-05).

Comprehensive Plan Considerations

Planning Area:

The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 100.

Applicable Goals, Objectives & Policies:

Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 5-2: The (re)zoning, (re)platting, and site planning of land shall be in compliance with the density ranges shown on the Davie Future Land Use Plan map and the applicable Future Land Use Designation provisions as contained in the Permitted Use portion of the Implementation Section.

Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Application Details

The applicant's **SUBMISSION** indicates the following:

- 1. *Site:* This site plan modification includes two (2) undeveloped lots within Stonebrook Estates located south of SW 26 Street and between SW 130 Avenue and Flamingo Road. The approved site plan (SP 2-8-95) consists of 129 lots on 136 acres. The lot size ranges from 35,000 square feet to 72,000 square feet in area. The approved side setbacks for these lots are 25 feet, and the approved rear setback is 40 feet on the previous site plan for Stonebrook Estates. The petitioner is requesting to modify side setbacks for these two (2) lots.
- 2. *Building:* The design of each model home was submitted for the Site Plan Committee approval.
- 3. *Landscaping:* The landscaping design for the overall site will not be affected. The landscaping for the individual lot will remain the same as approved by the previous site plan in terms of quantity and species of landscaping materials.
- 4. *Compatibility*: The proposed custom single-family residential homes can be considered compatible with both existing and allowable uses on and adjacent to this property.

Significant Development Review Agency Comments

All agency comments have been satisfied.

Staff Analysis

The petitioner has requested a site plan modification to lots 111 and 112 in Stonebrook Estates residential development. The following are the details relating to these specific requests:

- Lot 111: This request is for a reduction in the required side yard set back along the west property line from 25' to 20'.
- Lot 112: This request is for a reduction in the side yard set back along the east property line from 25' to 15'.

Similarly, on August 6, 2003, Town Council approved a site plan modification request to reduce the required side setbacks for twenty-two (22) single-family lots within the Stonebrook Estates development. This request modified the side setback from 25' to 15' to accommodate model homes with wider elevations and side loaded garages. Lots 111 and 112 were not included in this request. Both lots are presently vacant and the petitioner desires to construct approved model homes.

This site plan modification request will not affect the maximum lot coverage of 40% and/or the open space ratio for the overall Stonebrook development. This request would slightly reduce the ultimate open space provided between four (4) single-family homes. Consequently, the developer has volunteered to contribute \$1,000.00 to the Town's Open Space/Recreation Fund to mitigate this impact.

Findings of Fact

Staff finds that site plan modification is consistent with the general purpose and intent of the E, Estate District regulations. The proposed site plan is compatible with the surrounding uses and properties. Development of these two (2) lots does not exceed what was anticipated by the Future Land Use Plan Map designation.

Staff Recommendation

Staff finds the application complete and suitable for transmittal to the Site Plan Committee and Town Council for further consideration.

Site Plan Committee Recommendation

At the June 27, 2006, Site Plan Committee Meeting, Mr. Breslau made a motion, seconded by Vice-Chair Engel, to approve SPM 5-1-06 Stonebrook Estates. (Motion carried 5-0)

Town Council Action

Exhibits

- 1. Backup Information
- 2. Stonebrook Estates Site Plans
- 3. Lot 111 and 112 Site Plans
- 4. Agreement
- 5. Future Land Use Plan Map
- 6. Zoning and Aerial Map

Prepared by:	Reviewed by:

Kalis & Kleiman, P.A.

7320 Griffin Road, Suite 109 Davie, Florida 33314

Neal R. Kalis M. Scott Kleiman Michael J. Liss

Telephone (954) 791-0477 Fax (954) 791-0506 E-mail KalisKleiman@kaliskleiman.com

A. Project Name: StoneBrook Estates

Developer: Stonebrook Estates

Phone: (954) 382-9500

3000 West Stonebrook Circle Fax:

(954) 382-3639

Davie FL 33330

Architect/

Design Odyssey 2001 Inc.

Phone:

(954) 615-1000

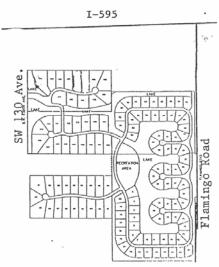
Engineer: 6400 N. Andrews Ave., Ste, 505

Fax:

(954) 615-2000

Ft. Lauderdale, FL 33309

В.



C. Office Address: 3000 West Stonebrook Circle, Davie, FL 33330

Legal Description: All of "KAPOK GROVE ESTATES" Plat according to the Plat thereof as recorded in Plat Book 2, Page 17 of the Public Records of Dade County, Florida, said land situate, lying and being in the Town of Davie, Broward County, Florida

Zoning: F

Е

Future Land Use:

Low Density Residential

D. Stonebrook Estates desires to modify the setbacks on Lots 111 and 112 to accommodate site specific spec homes that are to be constructed on each of these Lots in accordance with the attached site layout, floor plan and elevation. Stonebrook Estates is located on Flamingo Road, three miles south of 595. The community is a gated, 136-acre development consisting of 129 custom made single family one and two story homes priced from \$1,500,000 to over \$2,500,000. A combination of canals, lakes and landscaped buffer areas provide a private community. A recreation area with tennis, basketball, and volley ball courts are available for residents and guests of this private community. A paved recreational path is provided within the project. The maintenance of the lakes, roads, recreational areas, recreational paths and landscaping of all buffer yards and other common area open spaces will be the responsibility of the homeowners association.

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Kalis & Kleiman, P.A.

7320 Griffin Road, Suite 109 Davie, Florida 33314

Neal R. Kalis M. Scott Kleiman Michael J. Liss

Telephone (954) 791-0477 Fax (954) 791-0506 E-mail KalisKleiman@kaliskleiman.com

Stonebrook Estates May 4, 2006

<u>Location</u>: Stonebrook Estates is located between Flamingo Road and SW 130th Avenue, approximately 2 ½ miles South of Interstate 595.

<u>Justification</u>: Stonebrook Estates (the "Project") desires to modify the setbacks for two (2) single family lots (Lots 111 and 112).

Lot 111:

The request is for a reduction in the side yard set back along the west property line from 25' to 20'. The separation between the residences constructed on Lots 110 and 111 will be maintained at not less than 45'. The residence on Lot 111 will have a side loaded garage which is accessed via the private roadway to the east. The front yard setback will be maintained at not less than 35', the rear yard setback will be maintained at not less than 40' and the side yard setback to the roadway between Lots 111 and 112 will be maintained at 35'. The total lot coverage will be no greater than 40%. All as depicted on the proposed site layout prepared by Design Odyssey 2001, Inc. dated March 10, 2006, copy attached. There will also be permitted a side loaded driveway on this Lot.

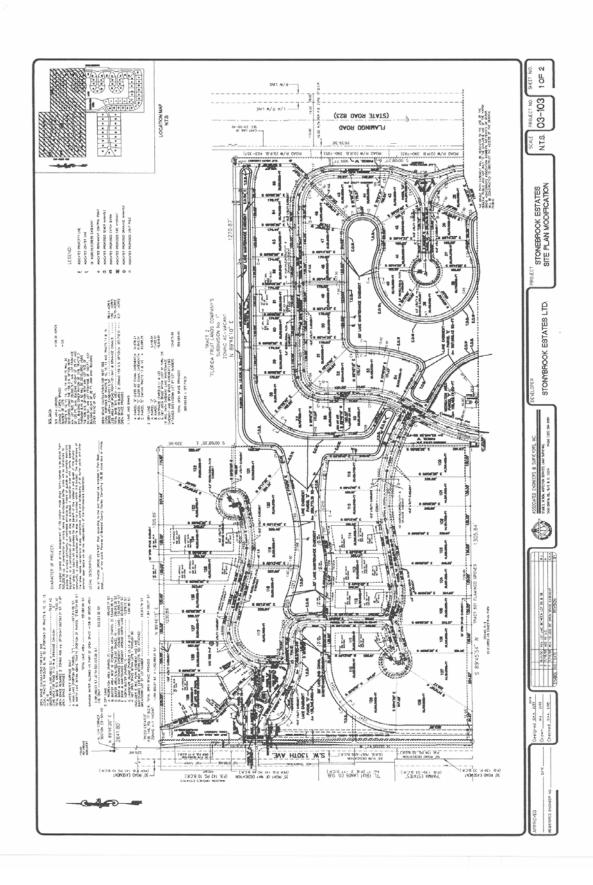
Lot 112:

The request is for a reduction in the side yard set back along the east property line from 25' to 15'. This will result in a minimum setback separation between Lots 112 and 113 of 40'. The front yard setback will be maintained at not less than 35', the rear setback will be maintained at not less than 40' and the side yard setback to the roadway between Lots 111 and 112 will be maintained at 35'. The total lot coverage will be no greater than 40%. All as depicted on the proposed site layout prepared by Design Odyssey 2001, Inc. dated October 6, 2005, copy attached.

The Developer has volunteered to contribute \$1,000.00 to the Town's Open Space/ Recreation Fund.

In July 2003 Stonebrook Estates requested modification of the side yard building setbacks for twenty-two (22) single family lots within the Stonebrook Estates subdivision from 25' to 15' to accommodate homes with wider elevations and side loading garages. The rear yard setback on those lots was increased from 20' to 50' and the allowable maximum lot coverage for each lot remained at 40%. A Developer's Agreement between the Town and Developer was entered into August 6, 2003 recorded in Official Records Book 36138 Pages 430-438 of the Public Records of Broward County, Florida. This Site Plan modification was approved by the Town Council as Resolution No. R-2003-197 on August 6, 2003. Lots 111 and 112 were not included in the 2003 modification.

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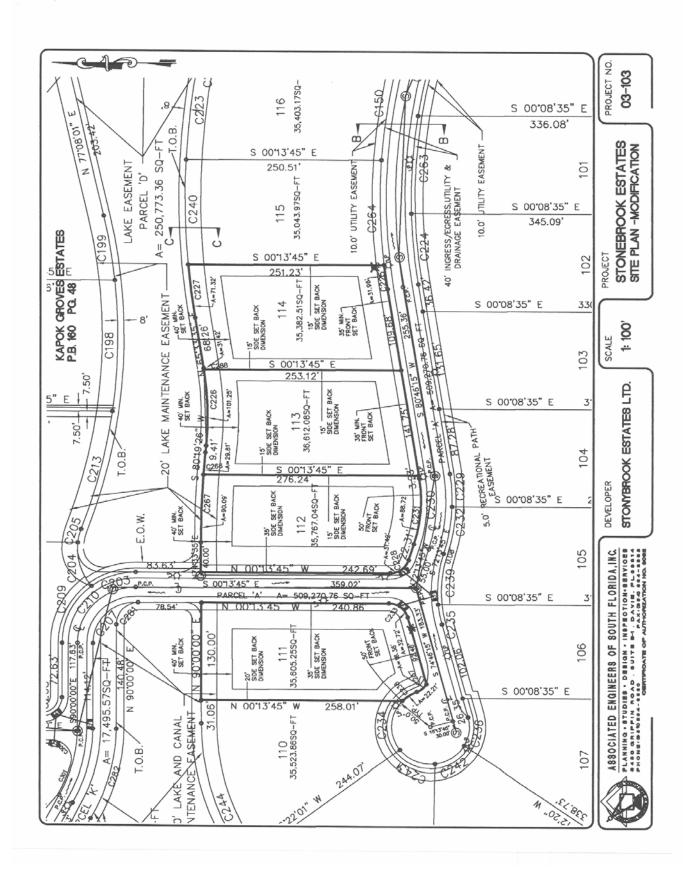
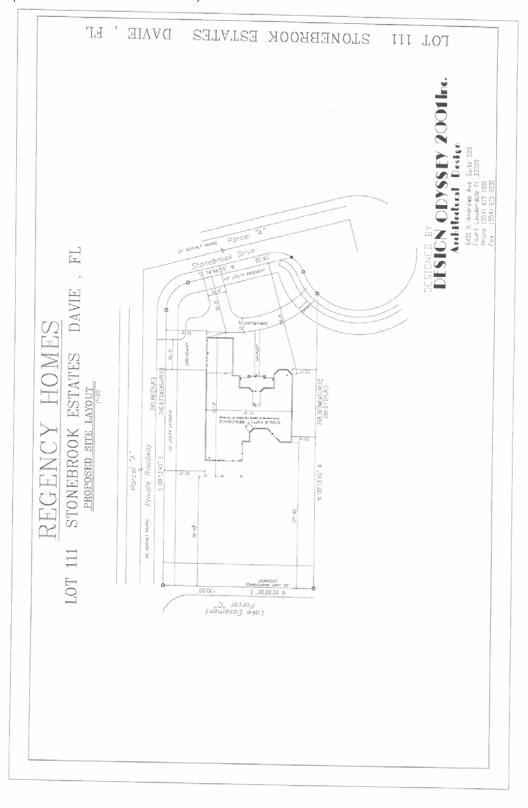
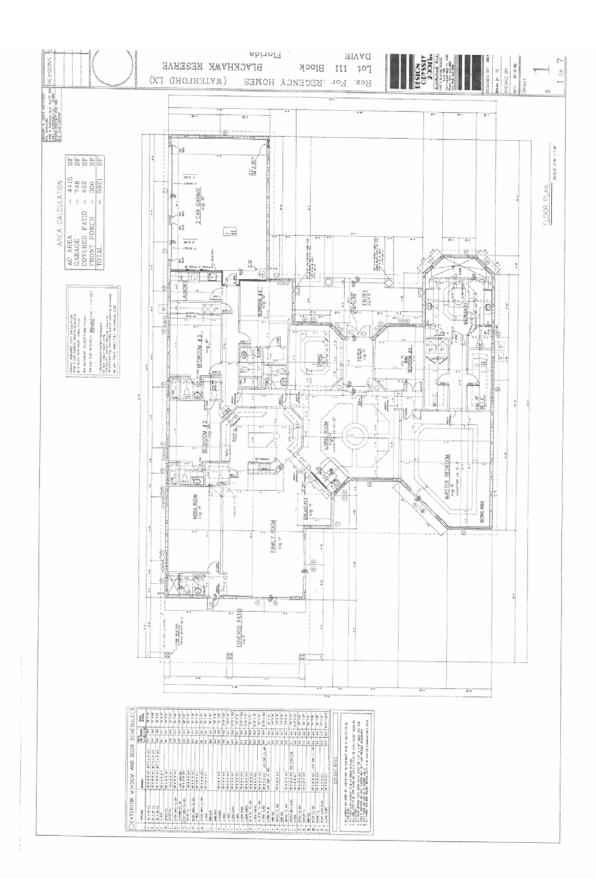
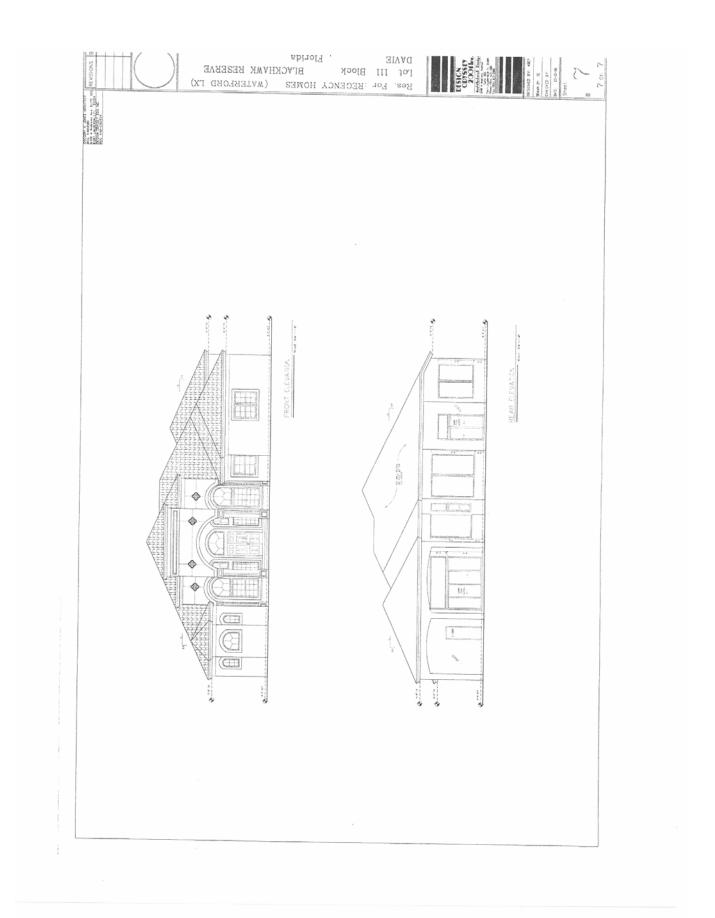
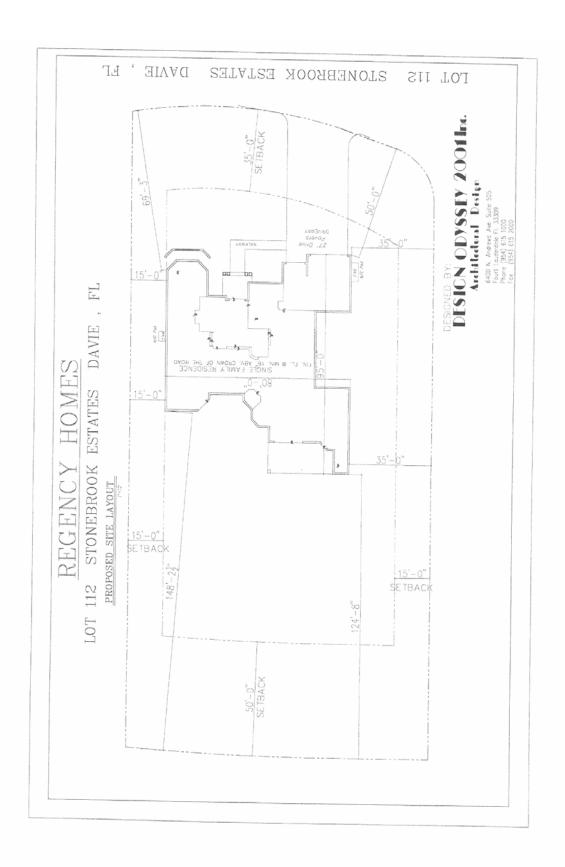


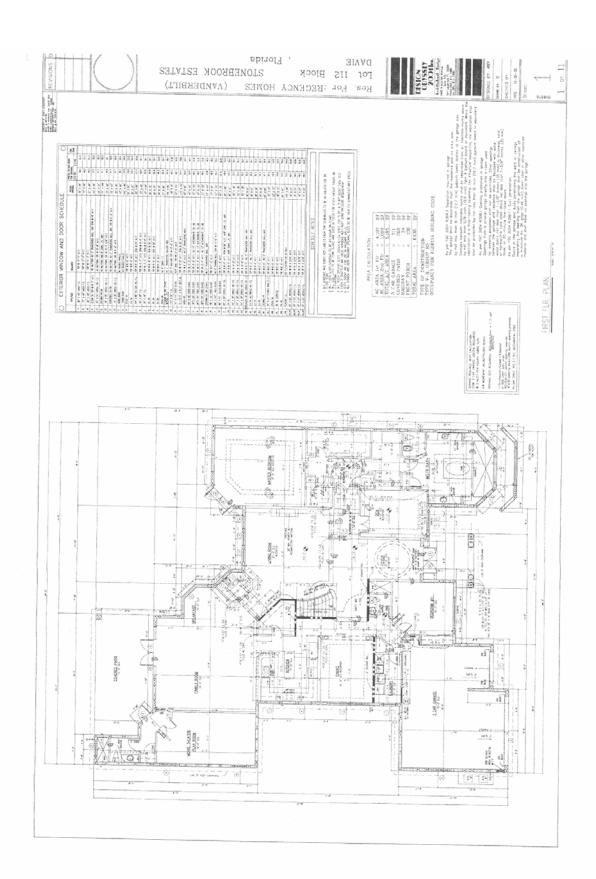
Exhibit 3 (Lots 111 and 112 Site Plans)

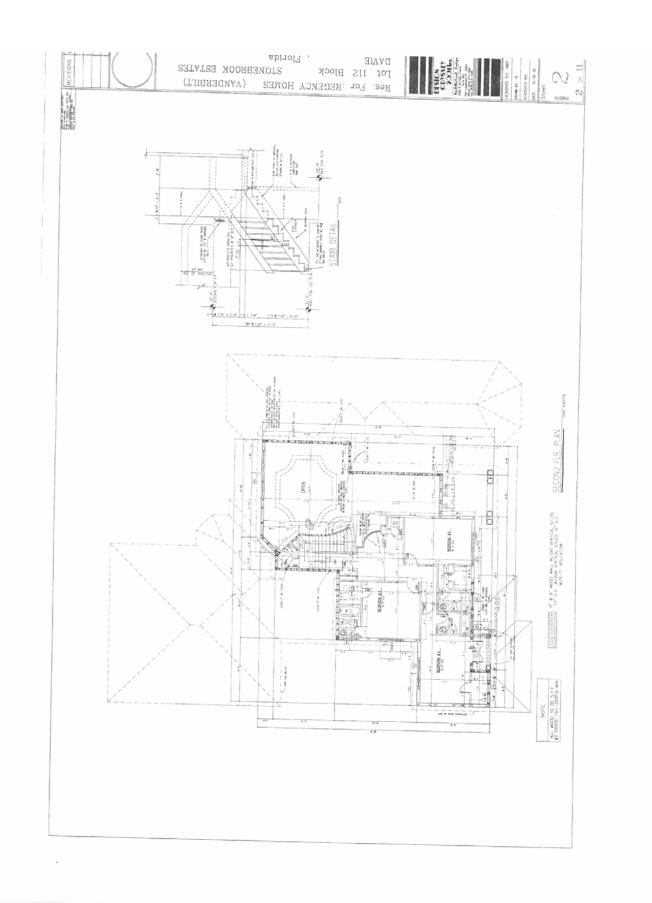


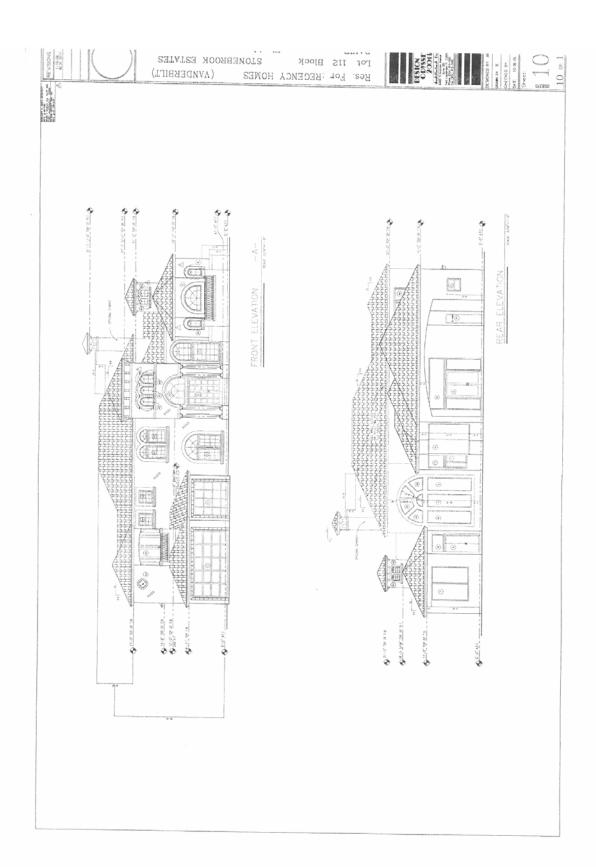












Return recorded copy to:

Document prepared by:

Neal R. Kalis, Esq. Kalis & Kleiman, P.A. 7320 Griffin Road, Suite 109 Davie, FL 33314

DEVELOPER'S AGREEMENT

This is an Agreement, made and entered into by and between: The TOWN OF DAVIE, a municipal corporation, created and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "TOWN".

AND

STONEBROOK ESTATES, LTD., a Florida partnership, its successors and assigns, hereinafter referred to as DEVELOPER,

WHEREAS, the Site Plan for Stonebrook Estates was approved by the Town Council on September 6, 1995; and

WHEREAS, the TOWN approved a site plan modification for twenty two (22) undeveloped lots within the Stonebrook Estates subdivision as Resolution No. R-2003-197 on August 6, 2003; and

WHEREAS, the DEVELOPER and TOWN entered into a Developer's Agreement on August 6, 2003, recorded in Official Records Book 36138, Pages 430-438 of the Public Records of Broward County, Florida; and

WHEREAS, DEVELOPER is the owner of two (2) undeveloped lots situated within the KAPOK GROVE ESTATES plat which plat is recorded at Plat Book 160, Page 48 of the Public Records of Broward County, Florida. The legal description for each of the two (2) undeveloped lots is more specifically set forth on Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, DEVELOPER has developed the KAPOK GROVE ESTATES property as the Stonebrook Estates project (the "Project") pursuant to approvals and permits granted by the TOWN; and

WHEREAS, a portion of the Project including the two (2) undeveloped lots was approved and developed under the TOWN's E Zoning District which Zoning District was subsequently repealed; and

WHEREAS, DEVELOPER seeks to modify the approved side yard building set backs relating to the two (2) undeveloped lots within the Project without altering the minimum open space and maximum lot coverage requirements.

NOW, THEREFORE,

IN CONSIDERATION of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the parties hereby agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.

2. EXISTING SET BACKS.

The DEVELOPER and the TOWN acknowledge and agree that the existing side yard building set backs for the two (2) undeveloped lots set forth on Exhibit "A" attached hereto comply with Code. Such existing side yard building set backs on the two (2) lots is twenty-five feet (25'). The DEVELOPER and the TOWN acknowledge and agree that the existing rear yard building set backs for the two (2) undeveloped lots set forth on Exhibit "A" attached hereto comply with Code.

3. MODIFICATION OF SET BACKS.

The permitted side yard building set backs for the two (2) undeveloped lots set forth on Exhibit "A" are hereby modified in such a manner so as to decrease the side yard building set back requirements in such a way such that the existing open space requirements and percentages pertaining to each effected lot remains unchanged. Specifically, the DEVELOPER shall be permitted to reduce the west side yard building set back on Lot 111 from twenty-five feet (25') to twenty feet (20') and the East side yard building set back on Lot 112 from twenty-five feet (25') to fifteen feet (15'). The allowable maximum lot coverage prior to the date of this Agreement is forty percent (40%) and shall not exceed such percentage as a result hereof. To the extent that any building plans are

submitted to the TOWN for approval and/or the issuance of building permits and such plans exceed the set backs provided for herein or the allowable maximum lot coverage, such plans shall not be approved nor shall building permits be issued by the TOWN.

4. DEVELOPER'S LUMP SUM CONTRIBUTIONS.

DEVELOPER shall, within thirty (30) days of the final approval and adoption of this Agreement by the TOWN, make a lump sum contribution to the TOWN's Open Space/Recreation Fund totaling \$1,000.00 in the aggregate. Such contribution is additional consideration for this Agreement.

COMPLIANCE WITH APPROVED SITE PLAN.

DEVELOPER agrees that, except as specifically provided for herein, DEVELOPER shall comply with the requirements and restrictions set forth in the site plan approval given by the TOWN for the Project.

6. RECORDATION.

DEVELOPER agrees that this Agreement shall be recorded in the Official Records of Broward County, Florida, against the property described in Exhibit "A" to put subsequent purchasers, grantees, heirs, successors and assigns of any interest in such property on notice of the obligations set forth herein, which shall run with the property.

7. **ENFORCEMENT**.

Nothing herein shall prevent the TOWN from enforcing the requirements of this Agreement against the owners, successors, or assigns in any part of the Project.

8 NOTICE.

Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by certified U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. Any notice sent to the Town shall be signed for by the Town Clerk or an authorized administrative officer of the Town so designated to sign for certified mail on behalf of the Town. For the present, the parties designate the following as the respective places for giving notice:

For the TOWN:

Town Clerk Town of Davie 6591 Orange Drive Davie, Florida 33314

For the DEVELOPER:

Stonebrook Estates, Ltd. 12501 Ridgeway Court Davie FL 33330

With a copy to:

Neal R. Kalis, Esq. Kalis & Kleiman, P.A. 7320 Griffin Road, Suite 109 Davie, FL 33314

9 VENUE: CHOICE OF LAW.

Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.

10. CHANGES TO FORM AGREEMENT.

DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the TOWN Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.

11. CAPTIONS AND PARAGRAPH HEADINGS.

Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.

NO WAIVER.

No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

13. EXHIBITS.

All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.

14. FURTHER ASSURANCES.

The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.

15. ASSIGNMENT AND ASSUMPTION.

DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement.

16. AMENDMENTS.

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to this Agreement.

17. SEVERABILITY.

In the event any terms or provisions of this Agreement are determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

18. TIME IS OF THE ESSENCE.

Time shall be of the essence for each and every provision hereof.

19. ENTIRE AGREEMENT.

This Agreement, together with the documents referenced herein, constitute the entire agreement and understanding between the parties with respect to the matters hereof, and there are no agreements, representations or warranties other than set forth herein.

IN WITNESS WHEREOF, the parties has respective dates under each signature: TOWN OF I by and through its Mayor or Vice Mayor, authorized on the day of, 200 through its Vice President, duly authorized to exec	d to execute same by TOWN COUNCIL action 6, and Stonebrook Estates, Ltd. signing by and
	TOWN TOWN OF DAVIE,
ATTEST:	
By:, Town Clerk	By Tom Truex, Mayor
Approved as to form:	
By:Monroe Kiar, Town Attorney	Dated this day of, 2006
STATE OF FLORIDA :	
COUNTY OF BROWARD :	
The foregoing instrument was acknowledged before the State of Florida, on this, the day of Town of Davie, a municipal corporation, who as identification.	, 2006 by Tom Truex, Mayor of the is personally known to me or produced
	Notary Public Printed Name:
Witnesses:	DEVELOPER Stonebrook Estates, Ltd.
Print Name:	ByPrinted Name:
	Dated:
Print Name	

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EXHIBIT "A"

Lot 111, Kapok Grove Estates, according to the Plat thereof as recorded in Plat Book 160, Page 48 of the Public Records of Broward County, Florida

Lot 112, Kapok Grove Estates, according to the Plat thereof as recorded in Plat Book 160, Page 48 of the Public Records of Broward County, Florida

